THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7758 of 2007

16.4.2007

Between:

P.C.Balaiah, S/o.Subba Raidu

… Petitioner

AND

The Joint Collector, Nellore District

And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7758 of 2007

ORDER:

The petitioner is allegedly landless and poor person. The land admeasuring Acs.2.25 in survey No.5/7 situated at Padalagunda village of Sullurpet Mandal in Nellore District, was assigned to the petitioner. He states that he dug a bore well and obtained electricity connection for irrigation purpose and also obtained agricultural loan from Naidupet Cooperative Agricultural Development Bank. Statedly he obtained necessary Pattadar Pass Books (PPBs) and Title Deeds (TDs) from the Mandal Revenue Officer, Sullurpet (MRO), third respondent herein. When Budduri Venkateswarlu tried to encroach upon the land, petitioner gave a representation to the respondents requesting protection. Petitioner submitted another representation on 03.1.2007, in response to which, first respondent sent a communication being endorsement in LPE 12/1067/2007, dated 26.6.2007. The same reads as under.

L.P.E.12/1067/2006

Office of the Collector,
Nellore, dated 26.2.2007

ENDORSEMENT

On enquiry made against the representation of Sri P.Chinnabalaiah, S/o.Subba Raidu for removal of encroachment from the land situated in Sy.No.5/7 admeasuring Ac.2.25 cents which is alleged to be in encroachment of Buduru Venkateswarlu, Mandal Revenue Officer as informed that the assignment of the land granted in Sy.No.5/6 to the assignee, an extent of Ac.3.00 has been alienated to third parties in contravention of POT Act. While canceling the said assignment the land has been resumed to the Government and an extent of land admeasuring Ac.2.00 has been assigned to the persons belonging to the Scheduled Castes and Scheduled tribes and the same is being cultivated. Hence the objection of the petitioner is rejected.

Sd/- xxx xxx
For Collector

Aggrieved by the above endorsement, petitioner filed the present writ petition seeking its invalidation by a writ of Mandamus. A consequential relief is also sought to respondents to give protection to the petitioner.

Learned Counsel for the petitioner submits that the allegation made against the petitioner that he alienated land admeasuring Acs.3.00 in survey No.5/6 and, therefore, the land was resumed, is without application of mind nor it is correct. According to the learned Counsel, petitioner was assigned land in survey No.5/7 and, therefore, the reason for alleged resumption is unsustainable. He also submits that treating the land in survey No.5/7 assigned to the petitioner in 1974 as the land in survey No.5/6 is grossly incorrect and illegal.

A perusal of the impugned order would show that the MRO already passed orders resuming the land. Whether the land resumed is in survey No.5/6 (part) or comprised in survey No.5/7 and whether petitioner alienated/transferred the assigned land are the subject to verification. In the absence of entire record, this is not possible for this Court nor is it permissible for this Court to go on rowing enquiry in such matters. These are the questions of fact. When the MRO already resumed the land on an allegation that the assigned land was alienated in contravention of the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977, and for that reason the representation of the petitioner for protection was rejected, the only remedy of the petitioner is to obtain copies of the orders of resumption and file appropriate appeal before the concerned authority. The impugned order also refers to the assignment of land admeasuring Acs.2.00 to persons of Scheduled Castes and Scheduled Tribes and in such a matter if this Court interferes, it would certainly cause prejudice to third parties, who are not before this Court. The petitioner is given liberty to approach the MRO, obtain copies of resumption orders and prefer appeal before the jurisdictional Revenue Divisional Officer.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

April 16, 2007.
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